

REBECCA MAHAR,
Plaintiff,
v.
GC SERVICES, LP,
Defendant.

COMPLAINT AND DEMAND FOR JURY TRIAL

(Unlawful Debt Collection Practices)

REBECCA MAHAR (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against GC SERVICES, LP (“Defendant”):

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA"), the Texas Debt Collection Act, Tex. Fin. Code § 392 *et seq.* ("TDCA") and Texas common law.

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331, which grants this court original jurisdiction of all civil actions arising under the laws of the United States.

4. Defendant regularly conducts business in the State of Texas therefore personal jurisdiction is established.

1 13. Defendant's collectors called Plaintiff from telephone numbers, including but not
2 limited to, (512) 549-8193 and (512) 782-0066, which the undersigned has confirmed belongs to
3 Defendant.

4 14. On average, Defendant's collectors called Plaintiff's cellular telephone two times
5 per day, despite requests by Plaintiff not to be contacted by telephone.

6 15. Once Defendant was aware that Plaintiff did not wish to be contacted by
7 telephone there was no reason for further calls, except for the purposes of harassment.

8 16. Defendant's collectors also called Plaintiff's place of employment and spoke with
9 her employer seeking information regarding Plaintiff's location and salary.

10 17. During its call with Plaintiff's employer, Defendant revealed that it was a debt
11 collector and that Plaintiff owed a debt. Defendant also advised Plaintiff's employer that it was
12 seeking to garnish Plaintiff's wages. However, when Plaintiff's employer requested that
13 Defendant provide documentation to support its garnishment request, Defendant hung up the
14 telephone.

15 18. Based upon information provided and belief, Defendant had no intention to
16 actually garnish Plaintiff's wages. Instead, Defendant made these threats with the intent to
17 harass, oppress, and abuse Plaintiff.

18 19. Plaintiff was extremely embarrassed and made to feel ashamed when she learned
19 that facts about her private financial obligations had been disclosed to her employer.

20 20. Finally, within five days of its initial communication with Plaintiff, Defendant
21 failed to send written notification of her rights to dispute the debt and/or to request verification of
22 the debt, as well as the name of the original creditor and the amount of the debt.

23 21. Defendant's actions in attempting to collect the alleged debt were taken with the
24 intent to harass, annoy and coerce payment from Plaintiff.

COUNT I
DEFENDANT VIOLATED § 1692b(2) OF THE FDCPA

22. A debt collector violates § 1692b(2) by stating that a consumer owes any debt while communicating with any person other than the consumer for the purpose of acquiring location information about the consumer.

23. Defendant violated § 1692b(2) when it disclosed to Plaintiff's employer, while attempting to locate Plaintiff, that it was a debt collector attempting to collect a debt owed by Plaintiff.

COUNT II
DEFENDANT VIOLATED § 1692c(b) OF THE FDCPA

24. A debt collector violates § 1692c(b) by communicating, in connection with the collection of any debt, with any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector without the prior consent of the consumer given directly to the debt collector, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a postjudgment judicial remedy.

25. Defendant violated § 1692c(b) when it contacted Plaintiff's employer, while attempting to collect a debt from Plaintiff, and disclosed adverse information pertaining to Plaintiff's financial obligations.

COUNT III
DEFENDANT VIOLATED § 1692d OF THE FDCPA

26. A debt collector violates § 1692d by engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

27. Defendant violated § 1692d when it placed repeated and continuous harassing telephone calls to Plaintiff's cellular telephone; when it continued to call Plaintiff after being advised that its calls were unwanted; when it disclosed to Plaintiff's employer that Plaintiff owed a debt; and, when it threatened to garnish Plaintiff's wages without the actual intent to take such action.

COUNT IV
DEFENDANT VIOLATED § 1692d(5) OF THE FDCPA

28. A debt collector violates § 1692d(5) by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

29. Defendant violated § 1692d(5) when it placed repeated and continuous harassing telephone calls to Plaintiff's cellular telephone; and, when it continued to call Plaintiff after being advised that the calls were unwanted.

COUNT V
DEFENDANT VIOLATED § 1692e OF THE FDCPA

30. A debt collector violates § 1692e by using any false, deceptive, or misleading representation or means in connection with the collection of any debt.

1 31. Defendant violated § 1692e when it threatened to garnish Plaintiff's wages, even
2 though Defendant never actually intended to take such action.

3
4 **COUNT VI**
5 **DEFENDANT VIOLATED § 1692e(4) OF THE FDCPA**

6 32. A debt collector violates § 1692e(4) by representing or implying that nonpayment
7 of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment,
8 attachment, or sale of any property or wages of any person, unless such action is lawful and the
9 debt collector or creditor intends to take such action.

10 33. Defendant violated § 1692e(4) when it threatened to garnish Plaintiff's wages,
11 even though Defendant never actually intended to take such action.

12
13 **COUNT VII**
14 **DEFENDANT VIOLATED § 1692e(10) OF THE FDCPA**

15 34. A debt collector violates § 1692e(10) by use of any false representation or
16 deceptive means to collect or attempt to collect any debt or to obtain information concerning a
17 consumer.

18 35. Defendant violated § 1692e(10) when it threatened to garnish Plaintiff's wages,
19 even though Defendant never actually intended to take such action.

20
21 **COUNT VIII**
22 **DEFENDANT VIOLATED § 1692f OF THE FDCPA**

23 36. A debt collector violates § 1692f by using unfair or unconscionable means to
24 collect or attempt to collect any debt.

1 37. Defendant violated § 1692f when it harassed Plaintiff by its unwanted attempts to
 2 communicate with her; when it called Plaintiff's place of employment and disclosed
 3 embarrassing information regarding Plaintiff to her employer; and when it threatened to take
 4 adverse actions against Plaintiff unless she paid the debt; and, generally, when it used unfair and
 5 unconscionable means to collect the alleged debt.

6
 7
 8 **COUNT IX**
 DEFENDANT VIOLATED § 1692g(a) OF THE FDCPA

9 38. A debt collector violates § 1692g(a) if within five days after the initial
 10 communication with a consumer, the debt collector fails to send the consumer a written notice
 11 containing (1) the amount of the debt; (2) the name of the creditor to whom the debt is owed; (3)
 12 a statement that unless the consumer, within thirty days after receipt of the notice, disputes the
 13 validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt
 14 collector; (4) a statement that if the consumer notifies the debt collector in writing within the
 15 thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain
 16 verification of the debt or a copy of a judgment against the consumer and a copy of such
 17 verification or judgment will be mailed to the consumer by the debt collector; and (5) a statement
 18 that, upon the consumer's written request within the thirty-day period, the debt collector will
 19 provide the consumer with the name and address of the original creditor, if different from the
 20 current creditor.

22 39. Defendant violated § 1692g(a) when it failed to send written notification, within
 23 five (5) days after its initial communication with Plaintiff, advising her of her rights to dispute
 24 the debt or request verification of the debt, as well as the name of the original creditor and the
 25 amount of the debt.

COUNT X
DEFENDANT VIOLATED § 392.302(4) OF THE TDCA

40. A debt collector violates § 392.302(4) by causing a telephone to ring repeatedly or continuously, or making repeated or continuous telephone calls, with the intent to harass a person at the called number.

41. Defendant violated § 392.302(4) when it placed repeated and continuous harassing telephone calls to Plaintiff's cellular telephone; and, when it continued to call Plaintiff after being advised that the calls were unwanted.

COUNT XI
DEFENDANT VIOLATED § 392.303(a)(2) OF THE TDCA

42. A debt collector violates § 392.303(a)(2) by using unfair or unconscionable means to collect a debt.

43. Defendant violated § 392.303(a)(2) when it harassed Plaintiff by its unwanted attempts to communicate with her; when it called Plaintiff's place of employment and disclosed embarrassing information regarding Plaintiff to her employer; and when it threatened to take adverse actions against Plaintiff unless she paid the debt; and, generally, when it used unfair and unconscionable means to collect the alleged debt.

COUNT XII
DEFENDANT VIOLATED § 392.304(a)(8) OF THE TDCA

44. A debt collector violates § 392.304(a)(8) by making fraudulent, deceptive or misleading representations when collecting a debt.

45. Defendant violated § 392.304(a)(8) when it threatened to garnish Plaintiff's wages, even though Defendant never actually intended to take such action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, REBECCA MAHAR, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3) and Tex. Fin. Code § 392.403(b);
- d. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, REBECCA MAHAR, demands a jury trial in this case.

DATED: June 20, 2014

KIMMEL & SILVERMAN, P.C.

By: /s/ Amy L. Bennecoff

Amy L. Bennecoff

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